

James Alan Bush
1211 East Santa Clara Avenue #4
San Jose, CA 95118
(408) 217-8282

Plaintiff in pro per

FILED

2008 JUN 26 P 2:00

RICHARD W. WIERING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.D.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

James Alan Bush,)
) Case No.: C 08-01354 (RS) JF
)
Petitioner,)
) REQUEST FOR JUDICIAL NOTICE OF
) EXHIBITS IN SUPPORT OF PLAINTIFF'S
v.)
) PETITION FOR REFUSAL TO PERMIT
) REVIEW OF PERSONAL RECORD
Valley Medical Center: Emergency)
Psychiatric Services,) [Fed. R. Evid. 201]
)
Respondent.) Judge Jeremy Fogel
)

REQUEST FOR JUDICIAL NOTICE OF EXHIBITS

Plaintiff hereby requests the Court take Judicial Notice pursuant to Rule 201, Federal Rules of Evidence, of the following exhibits:

- Exhibit "A", SCVMC Authorization for Disclosure of Protected Health Information;
- Exhibit "B", Subpoena Issued to Valley Medical Center: Emergency

Psychiatric Services and Response to Subpoena.

Signed: _____

Dated: _____

6-26-08

James Alan Bush
1211 East Santa Clara Avenue #4
San Jose, CA 95118
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Plaintiff in pro per

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

James Alan Bush,	)	Case No.: C 08-01354 (RS) JF
)	
Petitioner,	)	EXHIBIT A
)	
v.	)	SCVMC AUTHORIZATION FOR DISCLOSURE
	)	OF PROTECTED HEALTH INFORMATION
Valley Medical Center: Emergency)	
Psychiatric Services,)	
)	
Respondent.	)	Judge Jeremy Fogel
_____)	

EXHIBIT A

Petitioner hereby submits Exhibit "A", a copy of the SCVMC
Authorization for Disclosure of Protected Health Information Form, which
was submitted to Santa Clara Valley Medical Center on April 17th, 2007.

SCVMC AUTHORIZATION FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION

(FRONT)



5650



Call when ready

Santa Clara Valley Medical Center, 751 South Bascom Avenue, San Jose, CA 95128,
Telephone (408) 885-5147, Fax (408) 885-5170

SCVMC Authorization for Use and/or Disclosure of Protected Health Information

AUTHORIZATION: I give permission toSCVMC
(Name of Person/Organization Allowed to Release Records)

to use and release to

James Bush
(Name of Person/Organization Allowed to Receive the Records)

Address

City

State

Zip

1471 Alameda Ave, San Jose, CA 95126

for the records and information, as identified below, related to:

Bush

James

A

Last Name

First

Middle Initial

Medical Record Number

Date of Birth

Telephone Number

9-200-9063 9-26-72 408-661-2602

RECORDS: (Important: check the appropriate box or boxes and initial or sign and date as required.)1. ☒ **MEDICAL RECORDS* - Initials:**

* References to the following types of information may be in or part of your Medical Records and if you want any of these types of information to be released with your Medical Records you must sign and date next to each type:

☒ **Drug/Alcohol Treatment Information - Sign and Date:**☒ **Genetic Testing Information - Sign and Date:**☒ **Reference to or Results of a HIV Blood Test Information -**

Sign and Date:

2. ☒ **MENTAL HEALTH RECORDS - Sign and Date:**3. ☒ **OTHER (Please be specific)**

LIMITATION ON RELEASE: The following is a specific description ("limitation") of the record(s) checked above and date(s) of service. (If no limitation, please write "No Limitation")

NO LIMITS

FORM 5650 (Rev. 1/04)

DISTRIBUTION: WHITE-Chart CANARY-Patient

SCVMC 6889-24

SCVMC AUTHORIZATION FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION

(BACK)



5650



SCVMC Authorization for Use and/or Disclosure of Protected Health Information

USES: The person who receives the health information can use it only for the following reason(s):

FOR THEMSELVES

I understand that the person who receives the information cannot use the information for anything else or disclose the information to anyone else unless I give them a written authorization or the law allows it.

DURATION: This authorization is valid immediately and will be valid until 4-17-07 (give date). If I do not write in a date, it will expire six months from the date it was signed.

ADDITIONAL COPY: I understand that I have a right to receive a copy of this authorization if I ask for it. Copy requested and received: ☒ Yes ☐ No (Initial)

CANCELLATION: I understand that I have a right to cancel this authorization any time. A cancellation (1) must be in writing, (2) sent or given to the health information management department at the address on the top of this form, and (3) is effective when it is received by the department. A cancellation will not apply to actions already taken by SCVMC under this authorization or if the authorization was required for getting insurance coverage and the insurer has a legal right to contest a claim.

CONDITIONS: I understand that treatment, payment, enrollment, or eligibility for benefits will not be based on my giving or refusing to give this authorization except if my treatment is related to research, or if health care services are given to me only for creating protected health information for release to a third party. I also understand that I may refuse to sign this authorization.

SIGNATURE:

Patient/Representative

Date

If signed by other than patient, state relationship and authority to sign: _____

Signature of witness: _____ Date: _____

FOR MENTAL HEALTH USE ONLY

Complete the following if the patient is the person authorizing release of his/her records subject to California Welfare and Institutions Code Section 5328: The undersigned (the physician, licensed psychologist, or social worker with a masters degree in social work), who is in charge of the patient, hereby (approves)(disapproves) the release of information and records to Requestor. If disclosure is disapproved, give reasons below. Also note below or attach any restrictions on the release of records. (No approval is required for release to patient's attorney.)

Dated

Physician/Psychologist/Social Worker

Degree

DISTRIBUTION: WHITE-Chart CANARY-Patient

FORM 5650 (Rev. 1/04)

SCVMC 6889-24

James Alan Bush
1211 East Santa Clara Avenue #4
San Jose, CA 95118
(408) 217-8282

Plaintiff in pro per

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

James Alan Bush,	)	Case No.: C 08-01354 (RS) JF
)	
Petitioner,	)	EXHIBIT B
)	
v.	)	SUBPOENA ISSUED TO VALLEY MEDICAL
	)	CENTER: EMERGENCY PSYCHIATRIC
Valley Medical Center: Emergency	)	SERVICES AND RESPONSE TO SUBPOENA
Psychiatric Services,)	
)	
Respondent.	)	Judge Jeremy Fogel
)	

EXHIBIT B

Petitioner hereby submits Exhibit "B", a copy of a subpoena issued to Respondent, Valley Medical Center: Emergency Psychiatric Services, on July 7th, 2007; it is followed by a copy of the aforementioned respondent's response, sent on July 10th, 2007.

SUBPOENA ISSUED BY PLAINTIFF ON JULY 7TH, 2007

4068 (Rev. 12/06) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

James Alan Bush

SUBPOENA IN A CIVIL CASE

v.
 Sunnyvale Department of Public Safety, et al.

Case Number: C 07-0831 JF (RS)

Valley Medical Center: Emergency Psychiatric Services
 TO: 871 Enborg Ct
 San Jose, CA 95128
 (408) 885-6100

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the above case. Format: m/d/yyyy h:mm am/pm

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following place, date, and time specified below (list documents or objects):
 All documentation—both in electronic and printed form—regarding patient, James Alan Bush, regardless of its form, confidentiality or subject matter, by the date and time, and to the place, specified below. If you omit or alter any records in your possession, or fail to deliver them in a timely manner, sanctions will be imposed on you by the court.

PLACE 3859 De La Cruz Boulevard
 Santa Clara, CA 95054

DATE AND TIME
 July 21st, 2007 8 a.m.

☒ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below. Format: m/d/yyyy h:mm am/pm

PREMISES

DATE AND TIME

Format: m/d/yyyy h:mm am/pm

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

July 7th, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Format: m/d/yyyy

James Alan Bush
 3859 De La Cruz Boulevard, Santa Clara, CA 95054

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

If action is pending in district other than district of issuance, state district under case number.

DEFENDANT'S JULY 20TH, 2007 RESPONSE TO THE SUBPOENA

Dedicated to the Health
of the Whole Community



Acute Psychiatric Services
Legal Department
Barbara Arons Pavilion
820 Eubank Court
San Jose, California 95128-2643

tel: (408) 883-6041
fax: (408) 883-3347

July 10, 2007

James Alan Bush
3859 De La Cruz Boulevard
Santa Clara, CA 954054

Case No. C07-083 JF (RS)

Re: James Alan Bush v. Sunnyvale Department of Public Safety, et al
Request for Mental Health records of James Alan Bush

The Santa Clara County Mental Health Department (MHD) is unable to comply with your subpoena in the above-titled action.

We are not lawfully permitted to conduct a records search in response to your subpoena because county mental health records are privileged, and not subject to discovery by subpoena. (See Welfare & Institutions Code § 5328; Evid. Code, §§ 1014, et seq., 1040). Absent written consent, court order, or the application of an exception, MHD will generally not check records to determine whether the individual, whose confidential records are sought, has been a client.

Release of information is permitted pursuant to a valid, complete, original written consent signed by the client or the client's legal representative. To assure that the release is adequate, we recommend use of our consent form, a copy of which is attached. The only records we would produce would be psychiatric records.

Please note that the general power to issue subpoena does not authorize pretrial discovery of privileged material. (People v. Hammon (1997) 15 Cal. 4th 1117, 11280). Absent consent or a court order issued after due notice at trial, records will not be produced *in camera* inspection, nor will they be lodged with the Court pursuant to Evidence Code, § 1560.

Please also note that the notice of your request for disclosure must be served on the person whose records are sought, and an opportunity to object must be afforded, in light of that person's constitutional right to privacy and the statutory privileges noted above (Cal. Const. Art I, § 1; cf., Code of Civ. Proc., § 1985.3).

If you have any questions, please call me or the Deputy County Counsel assigned to the MHD at (408) 299-5900 (facsimile no.: (408) 292-7240).

Sincerely,

Julia Romero
Legal Department/Custodian of Records
Mental Health Department

Santa Clara Valley Health & Hospital System is owned and operated by the County of Santa Clara.

5-4-01

SPWMC 6811-1